

# HOUSE BILL 241

E1

(11r0557)

## ENROLLED BILL

— Judiciary/Judicial Proceedings —

Introduced by **Delegate Anderson (By Request - Baltimore City Administration), the Speaker (By Request - Administration), and Delegates Conaway, Oaks, B. Robinson, Tarrant, Washington, ~~and Wilson~~ Wilson, Arora, Barkley, Clippinger, Davis, Dumais, Mitchell, Niemann, Reznik, and Waldstreicher**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

\_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
Speaker.

CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Criminal Law – Restrictions Against Use and Possession of Firearms**

3 FOR the purpose of expanding the prohibition against the use of handguns and certain  
4 antique firearms in the commission of certain crimes of violence or felonies to  
5 include the use of any firearm, whether loaded or unloaded; altering the  
6 predicate crimes and increasing the maximum term of imprisonment applicable  
7 to a violation of the prohibition against a ~~certain~~ person who was previously  
8 convicted of a certain crime of violence or drug-related crime possessing a  
9 certain regulated firearm; providing that the imposition of certain mandatory  
10 minimum sentences are within the discretion of the court under certain  
11 circumstances; providing that certain mandatory minimum sentences may not

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### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

*Italics indicate opposite chamber/conference committee amendments.*



1 be imposed unless the State's Attorney notifies a certain person in writing at a  
 2 certain time of the State's intention to seek a certain sentence; prohibiting a  
 3 person from possessing a rifle or shotgun if the person was previously convicted  
 4 of a certain crime of violence or drug-related crime; establishing certain  
 5 penalties; ~~prohibiting a certain court from suspending any part of a certain~~  
 6 ~~sentence; providing that a certain person is not eligible for parole during a~~  
 7 ~~certain mandatory minimum sentence, with a certain exception;~~ providing that  
 8 each violation of a certain provision of law is a separate crime; defining a  
 9 certain term; and generally relating to the use and possession of firearms.

10 BY repealing and reenacting, with amendments,

11 Article – Criminal Law

12 Section 4–204

13 Annotated Code of Maryland

14 (2002 Volume and 2010 Supplement)

15 BY repealing and reenacting, with amendments,

16 Article – Public Safety

17 Section 5–133(c)

18 Annotated Code of Maryland

19 (2003 Volume and 2010 Supplement)

20 BY repealing and reenacting, without amendments,

21 Article – Public Safety

22 Section 5–143

23 Annotated Code of Maryland

24 (2003 Volume and 2010 Supplement)

25 BY adding to

26 Article – Public Safety

27 Section 5–206

28 Annotated Code of Maryland

29 (2003 Volume and 2010 Supplement)

30 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
 31 MARYLAND, That the Laws of Maryland read as follows:

32 **Article – Criminal Law**

33 4–204.

34 (a) (1) IN THIS SECTION, “FIREARM” MEANS:

35 (I) A WEAPON THAT EXPELS, IS DESIGNED TO EXPEL, OR  
 36 MAY READILY BE CONVERTED TO EXPEL A PROJECTILE BY THE ACTION OF AN  
 37 EXPLOSIVE; OR



1                   (III) EXCEPT AS OTHERWISE PROVIDED IN § 4-305 OF THE  
2 CORRECTIONAL SERVICES ARTICLE, THE PERSON IS NOT ELIGIBLE FOR  
3 PAROLE DURING THE MANDATORY MINIMUM SENTENCE.

4                   (3) AT THE TIME OF THE COMMISSION OF THE OFFENSE, IF A  
5 PERIOD OF MORE THAN 5 YEARS HAS ELAPSED SINCE THE PERSON COMPLETED  
6 SERVING THE SENTENCE FOR THE MOST RECENT CONVICTION UNDER  
7 SUBSECTION (C)(1)(I) OR (II) OF THIS SECTION, INCLUDING ALL  
8 IMPRISONMENT, MANDATORY SUPERVISION, PROBATION, AND PAROLE:

9                   (I) THE IMPOSITION OF THE MANDATORY MINIMUM  
10 SENTENCE IS WITHIN THE DISCRETION OF THE COURT; AND

11                   (II) THE MANDATORY MINIMUM SENTENCE MAY NOT BE  
12 IMPOSED UNLESS THE STATE'S ATTORNEY NOTIFIES THE PERSON IN WRITING  
13 AT LEAST 30 DAYS BEFORE TRIAL OF THE STATE'S INTENTION TO SEEK THE  
14 MANDATORY MINIMUM SENTENCE.

15                   (4) Each violation of this subsection is a separate crime.

16 5-143.

17                   (a) Except as otherwise provided in this subtitle, a dealer or other person  
18 may not knowingly participate in the illegal sale, rental, transfer, purchase,  
19 possession, or receipt of a regulated firearm in violation of this subtitle.

20                   (b) A person who violates this section is guilty of a misdemeanor and on  
21 conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding  
22 \$10,000 or both.

23                   (c) Each violation of this section is a separate crime.

24 5-206.

25                   (A) A PERSON MAY NOT POSSESS A RIFLE OR SHOTGUN IF THE PERSON  
26 WAS PREVIOUSLY CONVICTED OF:

27                   (1) A CRIME OF VIOLENCE; OR

28                   (2) A VIOLATION OF § 5-602, § 5-603, § 5-604, § 5-605, ~~§ 5-606, §~~  
29 ~~5-607, § 5-608, § 5-609, § 5-612, § 5-613, OR § 5-614~~ OF THE CRIMINAL LAW  
30 ARTICLE.

1 (B) ~~(1) SUBJECT TO SUBSECTION (C) OF THIS SECTION, A~~ A PERSON  
2 WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY AND ON CONVICTION IS  
3 SUBJECT TO IMPRISONMENT ~~FOR NOT LESS THAN 5 YEARS AND~~ NOT EXCEEDING  
4 15 YEARS.

5 ~~(2) THE COURT MAY NOT SUSPEND ANY PART OF THE~~  
6 ~~MANDATORY MINIMUM SENTENCE OF 5 YEARS.~~

7 ~~(3) EXCEPT AS OTHERWISE PROVIDED IN § 4-305 OF THE~~  
8 ~~CORRECTIONAL SERVICES ARTICLE, THE PERSON IS NOT ELIGIBLE FOR~~  
9 ~~PAROLE DURING THE MANDATORY MINIMUM SENTENCE.~~

10 ~~(C) AT THE TIME OF THE COMMISSION OF THE OFFENSE, IF A PERIOD~~  
11 ~~OF MORE THAN 5 YEARS HAS ELAPSED SINCE THE PERSON COMPLETED~~  
12 ~~SERVING THE SENTENCE FOR THE MOST RECENT CONVICTION UNDER~~  
13 ~~SUBSECTION (A)(1) OR (2) OF THIS SECTION, INCLUDING ALL IMPRISONMENT,~~  
14 ~~MANDATORY SUPERVISION, PROBATION, AND PAROLE.~~

15 ~~(1) THE IMPOSITION OF THE MANDATORY MINIMUM SENTENCE IS~~  
16 ~~WITHIN THE DISCRETION OF THE COURT; AND~~

17 ~~(2) THE MANDATORY MINIMUM SENTENCE MAY NOT BE IMPOSED~~  
18 ~~UNLESS THE STATE'S ATTORNEY NOTIFIES THE PERSON IN WRITING AT LEAST~~  
19 ~~30 DAYS BEFORE TRIAL OF THE STATE'S INTENTION TO SEEK THE MANDATORY~~  
20 ~~MINIMUM SENTENCE.~~

21 ~~(D)~~ (C) EACH VIOLATION OF THIS SUBSECTION IS A SEPARATE CRIME.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
23 October 1, 2011.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.